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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,414	09/26/2003	Scott Thomas Loughran	9369	8429

27752 7590 12/05/2006

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EXAMINER

GHALI, ISIS A D

ART UNIT	PAPER NUMBER
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1615

DATE MAILED: 12/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/672,414	Applicant(s) LOUGHRAN ET AL.	
	Examiner Isis A. Ghali	Art Unit 1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :10/20/03;
3/15/04; 8/5/04; 9/27/04; 7/27/05.

DETAILED ACTION

The receipt is acknowledged of applicants' election filed 09/11/2006; and IDSs filed 10/10/2003, 03/15/2004, 08/05/2004, 09/27/2004, and 07/27/2005.

Election/Restrictions

1. Applicant's election of Group I, claims 1-21, in the reply filed on 09/11/2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claim 22 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Claims 1-21 are included in the prosecution.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The present claim 1 is drawn to fibrous structure having cue such as color, smell, shape etc.

4. Claims 1-3, 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 98/50482 ('482).

WO '482 disclosed multiply absorbent article with pigmented adhesive positioned between the two plies that is formed of cellulosic fibers (abstract; page 4, lines 5-6; page 6, lines 310, 26. The pigmented adhesive reads on non-verbal cue.

5. Claims 1-3, 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by US 3,672,949 ('949).

US '949 disclosed laminated creped tissue having high absorbent properties, softness, and strength (abstract; col.1, lines 28-32, 55-59). The tissue is fabric, i.e. fibrous (col.1, lines 60-62). Tissue comprises more than single ply attached by adhesive applied in a pattern in discrete spots, i.e. non-verbal cue (col.2, lines 11-25, 70-71).

6. Claims 1-3, 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by US 3,684,949 ('641).

US '641 disclosed laminated creped tissue providing pleasant pattern of visible coloration i.e. non-verbal cue (abstract; col.1, lines 24-26; claim 1). The tissue is cellulose fibers (col.2, lines 25-28). Tissue comprises more than single ply attached by adhesive (col.2, lines 41-42).

7. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by US 4,325,768 ('768).

US '768 disclosed laminated creped fibrous web material with embossed pattern i.e. non-verbal cue (abstract).

8. Claims 1-3, 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,503,318 ('076).

US '076 disclosed multicolored printed laminate, wherein the laminate includes fibrous webs attached by plurality of discrete colored adhesive, non-verbal cue (abstract).

9. Claims 1-6, 10, 11, 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by US 6,221,211 ('211).

US '211 disclosed multi-ply tissue product containing indicia to indicate the presence of some unique ingredients within the tissue product (abstract). The reference disclosed facial and bath tissue and the indicia are coloring or printing on the internal ply surface, i.e. contacting the glue (col.1, lines 20-30). The tissue comprises more than

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one fibrous ply that are glued together (col.1, lines 39-45; col.2, lines 34-41). The indicia are color other than white or decorative pattern (col.2, lines 13-23). The indicia include ingredients such as emollient, moisturizers, softening agent, menthol (aromatherapy), cleansing agent and fragrance (col.2, lines 42-44, 53-58; col.4, lines 59-64).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claims 7-9, 12-16, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US '211.

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The teachings of US '211 are discussed above.

However, US '211 does not teach the specific ingredients as claimed in claims 7-9, the indicia indicating properties of the product as claimed in claims 12-16, or the package of the product as claimed in claim 21.

US '211 teaches emollient, moisturizers, cleansing agent and softening agent that encompass all chamomile, aloe and vitamin E, and one having ordinary skill in the art at the time of the invention would have selected the specific ingredient according to the specific intended use, motivated by the logic of the pharmaceutical art. Further, one having ordinary skill in the art at the time of the invention would have been motivated to provide the unique properties of the product on the indicia disclosed by the reference, motivated by the fact that listing of the properties will reveal the hidden advantages of the product, with reasonable expectation of better attraction to the consumer and better selling rate. Further, one having ordinary skill in the art would have packaged the product disclosed by US '211 motivated by the general knowledge to one skilled in the art that packaging protects the product during storage and handling, with reasonable expectation of having the product of US '211 in a package.

13. Claims 12-16 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US '211 in view of US 2004/0118530 ('530).

The teachings of US '211 are discussed above, however, US '211 does not teach the properties of the product as claimed in claims 12-16, or the package of the product as claimed in claim 21.

US '530 teaches facial or bath tissue or wipe product comprising fibrous material and patterned indicia (abstract; paragraphs 0009, 0013, 0014). The wipe is configured to provide the appropriate material to provide different physical properties including softness, strength, toughness, and absorbency (paragraph 0049). The products are packaged for eventual sale to the consumer (paragraph 0048).

One having ordinary skill in the art at the time of the invention would have been motivated to provide the product disclosed by US '211 and make the product having softness, strength, toughness, and absorbency as disclosed by US '530 by selecting the materials of the product and indicate the properties of the product on the indicia disclosed by the reference, motivated by the fact that the product has many desirable physical properties and advertising the properties may attract the consumer and increase the sale rate, with reasonable expectation of better attraction to the consumer and better sale rate. Further, one having ordinary skill in the art would have been packaged the product disclosed by US '211 as disclosed by US '530, motivated by the teaching of US '530 that packaging make the product ready for eventual sale, with reasonable expectation of having the product of US '211 in a package.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isis A. Ghali whose telephone number is (571) 272-0595. The examiner can normally be reached on Monday-Thursday, 7:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on (571) 272-8373. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Isis A Ghali
Primary Examiner
Art Unit 1615



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